



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Ref: 8EPR-N

Craig Bobzien
Forest Supervisor
Black Hills National Forest
1019 N 5th Street
Custer, SD 57730

RE: Black Hills National Forest Travel
Management Plan, Draft Environmental
Impact Statement
CEQ# 20090069

Dear Mr. Bobzien:

The Environmental Protection Agency (EPA) Region 8 Office has reviewed the Draft Environmental Impact Statement (DEIS) for the Travel Management Plan on the Black Hills National Forest (BHNF). The EPA reviews EISs in accordance with its responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309 of the Clean Air Act directs EPA to review and comment in writing on the environmental impacts of any major federal agency action. The EPA's comments include a rating of the environmental impact of the proposed action and the adequacy of the NEPA document.

The DEIS addresses roads, trails and areas under jurisdiction of the BHNF. The DEIS responds to the Travel Management Rule and discloses the effects of five alternative approaches to managing motorized vehicles on the Forest. The DEIS considers which routes should be designated as open to motorized use, what class of vehicles should be used on various routes, which routes should be open year-long and which ones seasonally, and whether limited cross-country motorized travel should be allowed for purposes of retrieving downed game and/or dispersed camping.

EPA is primarily concerned about impacts to water quality, aquatic resources and wildlife habitat from new road construction. We are concerned that the transportation system is being expanded when currently the existing system and non-system roads are damaging water, soil and habitat resources, as documented in the DEIS. In addition, the DEIS does not describe how the proposed closure of unclassified roads will be implemented and enforced while residential development adjacent to the national forest and off-highway vehicle use is increasing.

The DEIS analyzes five alternatives including the No Action. The proposed action, Alternative B, would greatly increase the miles of motorized trails from the current 36 miles to 663 miles. This would provide over 400 miles of trails for vehicles 50 inches or less in width, and 76 miles of motorcycle trails. This proposal would further designate 2,226 miles of road for motorized mixed use by both highway-legal and non-highway legal vehicles. An additional 1,242 miles of road would be open to highway-legal vehicles only. Routes not shown on the Motor Vehicle Use Map (MVUM) would be closed to motorized use. Display of the MVUM would make it easier for recreationists to comply with the system, and for the agency to enforce it. Cross-country travel would be allowed on 177,000 acres of National Forest Service land for the purposes of retrieving downed game and dispersed camping. This would reduce cross-country travel from the current 864,000 acres with the intent to improve natural resource conditions. The DEIS states that site-specific analysis is incorporated into the document to support the authorization of construction and reconstruction of trails. However, the interdisciplinary team did not evaluate the physical decommissioning of roads or trails, thus no decision to physically close and decommission roads or trails will be made on the analysis in this document (page 9).

EPA believes that Alternative D is the environmentally preferable alternative. Alternative D would provide the smallest motorized travel system and would emphasize user safety. It would provide 580 miles of mixed-use roads and 320 miles of motorized trails, and prohibit motorized cross-country use for any reason, with exceptions only for emergency and administrative access. This alternative seems most consistent with the National Forest Management Act requirement that the Forest Service (FS) manage forests in an ecologically sustainable manner that "protects soil and water resources, streams, streambanks, shorelines, wetlands, fish, wildlife and the diversity of plant and animal communities." 36 CFR 219.27(a)(4)(1982). It is also most consistent with Executive Order 11644 (as amended by EO 11989) that states that designation decisions shall locate areas and trails open to ORV use so as to "minimize harassment of wildlife" and to "be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands."

The DEIS states that the MVUM for Alternative D would "make user compliance and law enforcement easier. Resource damage, conflicts with nonmotorized recreationists and system maintenance costs would be reduced, and motorized users would find a planned travel system designed to meet their needs" (page 28). In contrast, the DEIS does not demonstrate how the proposed action will protect resources and be ecologically sustainable. While the DEIS provides information on stream crossing and fisheries impacts, the FS does not appear to use that analysis to support decision making that is consistent with the Executive Orders.

EPA evaluates the potential effects of proposed actions and the adequacy of the information in the DEIS. We rate this DEIS an "EC-2" (environmental concerns, insufficient information) under EPA's enclosed ratings criteria. The EC rating indicates that the reviewer has identified environmental impacts that should be avoided in order to adequately protect the environment. These are described in the attached comments. We also recommend additional

analysis and information to fully assess and mitigate all potential impacts of the management actions. A copy of EPA's rating criteria is attached.

EPA appreciates the opportunity to review and comment on the DEIS and your willingness to consider our comments at this stage of your planning process. If we may provide further explanation of our concerns please contact Jody Ostendorf of my staff at 303 312-7814, or me at 303 312-6004.

Sincerely,



Larry Svoboda
Director, NEPA Program
Ecosystems Protection and Remediation

Enclosure:

Ratings criteria

Detailed Comments

Water Quality

EPA is concerned that the proposed action could exacerbate existing water quality impairments on several streams on the BHNF. Alternative B would have 547 road/trail crossings on perennial streams, 20 miles of road/trail within 30 feet of perennial streams and 125 miles of road/trail within 119 feet of perennial streams forestwide (Table 29, page 123). There are several streams within the BHNF that are listed as impaired and not supporting designated beneficial uses due to temperature (SD DENR 2008, DEIS page 118). They include Battle Creek, Bear Butte Creek, Elk Creek, Grizzly Bear Gulch, North Fork Rapid Creek, Rapid Creek, Spring Creek, Victoria Creek and West Strawberry Creek. French Creek is also listed as impaired due to dissolved oxygen from natural and drought-related sources. Dissolved oxygen and temperature are directly related. The DEIS states that summer water temperature is increased, and winter water temperature is decreased, in part, because of road crossings that remove riparian vegetation, unmitigated low-water crossings, and from off-road vehicles crossing streams. It is not clear from the DEIS how many of the 547 road/trail crossings that would be permitted under Alternative B would cross those impaired water bodies.

EPA supports the need for a stream-crossing inventory protocol for the transportation system that gives priority to the impaired streams, and those with the most crossings. However, EPA believes the travel management plan should not permit any Off-Highway Vehicle (OHV) use within 30 feet of an impaired water body. If proposed trails go up and down drainages or cross impaired water bodies in the proposed action, EPA recommends that those trails be immediately closed. EPA is concerned that allowing OHVs to continue to impact those waters will lead to further degradation of water quality.

In Appendix B: Design Criteria Common to All Alternatives, the FS proposes armoring or remediating a number of perennial stream crossings which are prioritized based on level of use, degree of impact and aquatic resource value (DEIS page 308). EPA notes that the list does not include all of the impaired streams listed above. Please clarify whether that means the streams not included in the table have no stream crossings, or whether impairment is not considered part of the prioritization criteria. EPA recommends that all crossings of impaired water bodies should have the highest priority for armoring or remediation, and those crossings should be closed. Furthermore, the perennial stream crossings proposed for three years of monitoring includes two impaired water bodies, Elk Creek and Victoria Creek, and EPA recommends that those crossings be eliminated from the travel system (DEIS page 309).

Impacts to Non-Motorized Recreation

In "Alternatives Considered but Eliminated from Detailed Study" the DEIS states that the document will "consider the effects of motorized route designation on non-motorized recreation opportunities" (page 35). In response to a request from the Norbeck Society and other organizations to designate additional "Walk-In Areas" for additional protection from impacts

from motorized trails, the FS states that "designation of non-motorized routes is not the focus of this project." However, the Travel Management Rule criteria for designation of roads, trails and areas states that, among others, the responsible official must consider effects, with the objective of *minimizing impacts* to soil, watershed, vegetation and other forest resources; harassment of wildlife and significant disruption of wildlife habitats; and conflicts between motor vehicle use and existing recreational uses of NFS lands (212.55(b)). The MVUM provides information on motorized use, but there is no way to know from the maps how the proposed transportation system will impact non-motorized users such as hikers, campers and mountain bikers. The MVUM should clearly identify primitive and semi-primitive areas on the forest such as wilderness, roadless areas and botanical areas so that non-motorized recreationists will be able to avoid user conflicts.

EPA is very concerned that the proposed action would open additional roads to motorized opportunities inside areas with Recreational Opportunity Spectrum (ROS) for non-motorized activities (page 56). For semi-primitive non-motorized areas, three areas -- Dugout, Cook Lake and Sundance Burn -- would have roads open to motorized use. Of the roaded natural non-motorized areas, Bogus Jim, Smith Draw, Eagle Cliff, Forbes Gulch and Wood Canyon would see new roads opened to motorized use. According to Table 13, page 57, 38 miles of semi-primitive non-motorized and 109 miles of roaded natural non-motorized roads or trails currently available for non-motorized recreationists would be opened up to motorized use. The DEIS states that this is not consistent with the Forest Plan guideline for ROS designations because the motorized users would impact the non-motorized users. However, the DEIS does not analyze the impact of this decision on non-motorized users. According to Table 9 on page 51, less than 10 percent of the BHNH 1.2 million acres of forest are non-motorized. More than 90 percent of the BHNH is open to motorized use. Yet, the 2008 update to the National Visitor Use Monitoring project reflects that only 1.9 percent of NF recreational visitors listed their primary activity as OHV use (USDA Forest Service 2008c) (DEIS page 94). Therefore, this travel management plan appears to be designed for the benefit of a clear minority of recreationists on the forest. EPA strongly urges the Forest Service to reconsider opening any currently non-motorized areas up to motorized use.

Furthermore, based on Figures 10-14, pages 120-122, EPA is concerned that the DEIS does not propose any closure or decommissioning of roads or trails. The pictures show significant impacts to sediment, stream integrity, wetlands and floodplains on the Forest from OHV use. The Travel Management Plan provides for temporary, emergency closures based on a determination of considerable adverse effects (212.52(2)). According to the Travel Management Plan, if the responsible official determines that motor vehicle use on the Forest is directly causing or will directly cause considerable adverse effects on soil, vegetation, wildlife, wildlife habitat, or cultural resources, the responsible official shall immediately close that road, trail or area to motor vehicle use until the adverse effects have been mitigated or eliminated and measures have been implemented to prevent future recurrence. EPA does not believe the DEIS supports the FS determination that there are no such areas on the Forest and, in fact, those photographs contradict that determination. EPA recommends that the FEIS identify the roads and trails that have incurred considerable adverse effects and propose closure of those areas until the impacts can be mitigated.

Cross-Country Use

EPA is concerned that limited motorized cross-country use will be allowed on 179,000 acres for retrieving harvest elk within 300 feet of certain designated roads, and for dispersed camping within 100 feet of certain designated roads (page 25). This seems inconsistent with the Travel Management Rule Q&A section in the Federal Register stating that provision 212.51(7)(b) should be applied "sparingly," to avoid undermining the purposes of the final rule and to promote consistency in implementation. EPA recommends that the Forest Service not allow off-road driving to retrieve game. Driving 300 feet off a designated road will not help hunters remove game that was likely downed beyond 300 feet, but it will likely cause significant resource damage. With regard to dispersed camping, EPA is concerned about allowing resource damage from off-road driving into the forest. The cumulative impacts to vegetation, soils and water quality far outweigh any convenience factor of being 100 feet closer to a campsite. The Forest Service can manage motorized travel for dispersed camping by allowing parking along the side of designated roads where campers can walk into the forest to dispersed sites, and/or designating "spur" roads to established dispersed sites. EPA strongly encourages the Forest Service to reconsider these proposed exceptions to banning cross-country travel. Furthermore, not allowing off-road driving simplifies enforcement of the MVUM and ensures protection of forest resources.

Noise Impacts

The DEIS states that land management agencies, including the Forest Service, and some states across the country have started establishing legal limits for sound emissions from OHVs, including motorcycles. The DEIS proposes to establish a 96 DB(A) sound emission limit for OHVs on the BHNF roads and trails. This noise level was selected because it is the maximum level currently mandated by at least five states. The DEIS also states that 96 DB(A) is regarded as an adequate limit by the EPA (DEIS page 76). Please provide your source for that statement.

According to the National Institute for Occupational Safety and Health (NIOSH), noise levels above 85 DB(A) can cause hearing injury. The Federal Highways Administration considers noise levels above 75 DB(A), or any increase of 30 DB(A) or more above existing noise levels, a severe noise impact. Some States define what a severe impact is in their policy and have a procedure for dealing with severe impacts. Other States deal with severe impacts on a case-by-case basis. Decibel measurements are made on a logarithmic scale, which means that an increase of 10 decibels approximates a perceived doubling of the noise level. A noise source measuring 70 DB(A) is therefore 10 times louder than a source measuring 60 DB(A) and 100 times louder than a source reading 50 dB. The average background noise in a typical home is between 40 and 50 DB(A). Therefore, the FS is proposing to allow noise levels that are 400-500 times louder than a typical home.

The DEIS states that much of the land on the periphery of the Forest, and the 300,000 acres of State and private land within the BHNF administrative boundary is prized for private subdivision development, private ranches and land speculation whose end purpose is generally

residential development (DEIS page 1). Given the patchwork nature of the BHNF, with widespread residential property mixed in with public land, EPA is very concerned about the impacts to private homeowners of allowing OHVs with those noise levels to pass through residential areas.

EPA recommends that the Forest Service adopt legal limits for sound emissions based on recommendations of the Federal Highway Administration for "Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose." For those purposes the proposed limit is 60 DB(A). If that is not feasible, the Forest Service could propose an emission limit of 70 DB(A), which is recommended for "Picnic areas, recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals." For more information, please see:
<http://www.fhwa.dot.gov/environment/noise/polguide/regulations.htm#pg3>

Enforcement and Maintenance of the Transportation System

The Travel Management Rule references the "need for maintenance and administration of roads, trails and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration" (Section 212.55(a)). There is also a requirement that the responsible official "monitor the effects of motor vehicle use on designated roads and trails and in designated areas" (Section 212.57). EPA is concerned with the lack of resources identified for enforcement and maintenance of the transportation system. The DEIS states that "current FS law enforcement resources alone are not at a level that would make enforcement of the prohibition of motorized-mixed use on NFS roads," and "limited enforcement success has likely contributed to increased road and area use violations, user conflicts and resource damage" (DEIS page 75). The DEIS also states that "annual road maintenance resources are approximately 50 percent of what is needed," and "current maintenance funds are not sufficient to maintain the current trail system to standard" (DEIS pages 80-81). EPA is concerned that the FS is proposing to add 1,450 miles of motorized-mixed use trails to a transportation system it currently cannot afford to maintain, and issue a MVUM that the FS has insufficient resources to enforce. EPA is also concerned that many of the user-created routes that will be added to the designated system were not designed or engineered in a way that considered slope and erosion impacts, redundancy and minimizing impacts to soil, watersheds, vegetation, wildlife and habitat.

